IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Gupta et al.
Serial No.	:	09/747,645
Filed	:	December 22, 2000
For	:	METHOD AND APPARATUS FOR MEASURING PRODUCT SHIPMENT PROCESS CAPABILITY
Group Art No.	:	3623
Examiner	:	Romain Jeanty

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

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37 CFR 1.8(a)	**37 CFR 1.10**
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RESPONSIVE TO THE NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF MAILED SEPTEMBER 30, 2009

Dear Sir:

     Responsive to the Notice of Non-Compliant Appeal Brief mailed September 30, 2009, Applicant requests consideration of the amendment and remarks set forth below:

In the Appeal Brief. *Please replace the material under Section 5, SUMMARY OF CLAIMED SUBJECT MATTER, with the following:*

The invention relates to a method and apparatus for measuring product shipment process capability. *Application,* Title. More particularly, the invention is directed to providing real-time, or in a time that for all practical purposes is real-time to the user, information about product shipment process capability. *Id* at pg. 3, lns. 2-3. The information is to be available continuously and automatically updated at a frequency to maintain the real-time effectiveness of the information. *Id* at pg. 3, lns. 3-5.

Claim 1 calls for a method for measuring product shipment process capability. The method comprises maintaining (36) a database that contains fields indicating at least an order, a max ship date, a customer requested date, and a product category for each order. *Id* at pg. 7, lns. 20-22; Fig. 2. The step of fetching (38) order information for all orders that have a valid max ship date is then claimed. *Id* at pg. 9, lns. 16-17; pg. 10, lns. 1-16; pg. 12, lns. 18-19; pg. 13, lns. 3-4; Fig. 2. Next, the step of subtracting (48) the customer requested date from the max ship date producing a difference value is claimed. *Id* at pg. 10, lns. 4-5; pg. 12, lns. 19-20; pg. 13, lns. 11-13; Fig. 2. Following the subtracting step, the step of adding (52) a predetermined number of days to the difference value providing a shipment quality metric for each order, and determining (58-68) a statistical calculation to indicate process quality using the shipment quality metric is set forth. *Id* at pg. 10, lns. 5-16; pg. 12, lns. 21; Fig. 2.

Claim 11 call for a computer-readable medium having stored thereon one or more computer programs having a set of instructions that, when executed by one or more computers (10), causes the one or more computers to query, ignore, subtract, repeat, and process a variety of elements of the claim. *Id.* at Fig. 1. That is, the one or more computers (10) are caused to query (38, 98, 102) a database (36) that contains information detailing orders, a requested delivery date, a max ship date, and a product category for a plurality of products. *Id* at pg. 9, lns. 16-20; pg. 10, lns. 1--5; Figs. 1-2, 4. Orders with no max ship date are ignored (40). *Id* at pg. 13, lns. 21-22; Fig. 2. The requested delivery date is subtracted (48) from the max ship date and an adjustment value is added (52) to obtain a shipment quality metric. *Id* at pg. 10, lns. 4-16; pg. 12, lns. 19-

21; pg. 13, lns. 11-13; Fig. 2. The query, subtraction, addition acts are repeated (56a) for a plurality of shipped products. *Id* at pg. 13, lns. 11-14; pg. 14, lns. 2-4; pg. 15, lns. 4-7; Fig. 2. The one or more computers (10) are also caused to process (58-66) the shipment quality metrics to determine overall shipment quality. *Id* at pg. 9, lns. 3-4; pg. 12-13, lns. 21-2, respectively; Figs. 1-2.

Claim 17 calls for a computer data signal representing a sequence of instructions that, when executed by one of more processors (10), cause the one or more processors (10) to maintain, obtain, create, and compute a variety of elements as set forth in such claim. *Id.* at pg. 14-15, lns. 20-4, respectively,, Fig. 1. That is, the one or more processors (10) are caused to maintain a database of data (30) indicating an order number, a promise date, a request date, a max ship date, and a product category for each product. *Id.* The data from each order that has a valid max ship date is obtained (38). *Id.* at pg. 14, lns. 20-22; Fig. 2. An upper specification limit is created (64) by adding a predetermined number of days just prior to a customer's requested delivery date. *Id.* at pg. 14-15, lns. 20-3, respectively. A lower specification limit is created (64) by adding a predetermined number of days after a customer's requested delivery date. *Id.* Further, the one or more processors (10) compute (58-68) and display (82, 86, 90) a statistical value providing an indication of process capability. *Id* at pg. 15, lns. 19-20; pg. 16, lns. 1-2-; Figs. 1-3.

Claim 27 calls for a computer readable storage medium having a computer program that, when executed by a processor (10), causes the processor (10) to acquire, calculate, establish, and determine a variety of elements of the claim. That is, the processor (10) is caused to acquire (46, 44) a requested delivery date and a shipped date of a number of customer orders from a database. *Id.* at pg. 10, lns. 1-2; Figs. 1-2, 4-5. A shipment metric mean value and standard deviation are calculated (58, 62) from the dates. *Id.* at pg. 9-10, lns. 27-18, respectively; pg. 12-13, lns. 15-2, respectively; Fig. 2. An upper specification limit and a lower specification limit are established (64). *Id.* at pg. 11, lns. 11-13; pg. 13, lns. 4-8; pg. 14, lns. 10-14; pg. 14-15, lns. 20-3, respectively; Fig. 2. A first Z value is calculated (64) by subtracting the mean value from the upper specification limit and dividing by the standard deviation. *Id.* at pg. 11, lns. 16-19; pg; pg. 15, lns. 7-10. A second Z value is calculated (64) by subtracting the lower specification limit from the mean value and dividing by the standard deviation. *Id.* at pg. 11, lns. 16-19; pg. 15, lns. 10-12. The processor (10) is also caused to determine a long term process

capability value by selecting a minimum of the first Z value and the second Z value. *Id.* at pg. 11, lns. 19-20; pg. 15, ln. 12.

<center>**REMARKS**</center>

According to the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on March 10, 2008 was non-compliant because "the brief did not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal." *Notification of Non-Compliant Appeal Brief*, September 30, 2009, pg. 2. In particular, it was asserted that the "Summary of Claimed Subject Matter" found in Section 5 improperly relied on the Published Application." *Order Returning Undocketed Appeal to Examiner*, September 16, 2009, pg. 2. An entire new brief is not required because, though the Appeal Brief included summaries of claims 1, 11, 17, and 27 with reference to the Published Application paragraph numbers, the Appeal Brief only lacked line and page number references to claims 1, 11, 17, and 27. *See* MPEP § 1205.03.

In accordance with MPEP § 1205.03, Appellant amends Section 5 to include a summary of claims 1, 11, 17, and 27 with references to the Specification by line and page number.

Please find attached a summary of claims 1, 11, 17, and 27, as identified above, with references to the Specification by line and page number where applicable. Appellant appreciates consideration of these Amendments and Remarks and cordially invites the Examiner or the Patent Appeals Specialist to call the undersigned, should any matters be considered unresolved.

Respectfully submitted,

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